

*Before the*  
**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, DC 20554**

In the Matter of	)	
	)	
2010 Quadrennial Regulatory Review – Review of the	)	MB Docket No. 09-182
Commission’s Broadcast Ownership Rules and Other	)	
Rules Adopted Pursuant to Section 202 of the	)	
Telecommunications Act of 1996	)	
	)	
Promoting Diversification of Ownership	)	MB Docket No. 07-294
In the Broadcasting Services	)	

To:     The Commission

**SUPPLEMENTAL COMMENTS OF THE  
ASSOCIATION OF FREE COMMUNITY PAPERS  
MID-ATLANTIC COMMUNITY PAPERS ASSOCIATION  
AND THE FREE COMMUNITY PAPER INDUSTRY**

Association of Free Community Papers and Mid-Atlantic Community Papers Association, on behalf of Midwest Free Community Papers, Community Papers of Michigan, Free Community Papers of New York, Community Papers of Florida, Community Papers of Ohio and West Virginia, Southeastern Advertising Publishers Association, Texas Community Newspaper Association, and Wisconsin Community Papers (collectively “Free Community Paper Industry”), submit these Reply Comments in response to the Federal Communications Commission’s Public Notice<sup>1</sup> seeking Comment on the recently released Report on Ownership of Commercial Broadcast Stations (“Ownership Report”).<sup>2</sup>

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<sup>1</sup> *Commission Seeks Comment on Broadcast Ownership Report*, MB Docket Nos. 09-182, 07- 294, Public Notice (rel. Dec. 3, 2012).

<sup>2</sup> *2010 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Report on Ownership of Commercial Broadcast Stations, 27 FCC Rcd 13,814 (2012).

We take this opportunity to reiterate the sentiments expressed in our Public Letter to the Chairman, dated November 20, 2012, urging the Commission to abandon its reported rush to permit new cross-media consolidation without a robust analysis of the recently released court-ordered data on female and minority broadcast ownership. We echo the concerns shared by public interest commenters<sup>3</sup>, as well as our small business peers on the front lines of local media<sup>4</sup>, that the levels revealed in the Ownership Report are not only very bad, but trending for the worse.

However troubling the data in the Ownership Report, it cannot be treated as another footnote, exhibit or di minimis item checked off the to-do list for the current Rulemaking. We agree with the general consensus point shared across comments in this matter, which is that finally generating new data, alone, is simply not sufficient to the larger proceedings. The Commission still has an obligation to analyze this data, and to further employ such studied work product to assess the impact of current policy proposals on its mission to promote diversity, localism and competition. Several public interest and minority small business commenters have exhaustively cited chapter and verse the essential matters of substance and process: Finally counting who owns what -- while completely failing to address the impact of proposed rule changes -- does not come close to meeting the demands of the Third Circuit in both *Prometheus I* and *Prometheus II*. Concise and constructive treatment is found here in the NHMC's summary of the Third Circuit's mandate:

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<sup>3</sup> See generally: Comments of The Office of Communication of the United Church of Christ, Inc. ("UCC"), Media Alliance, National Organization for Women Foundation, Communications Workers of America, Common Cause, Benton Foundation, Media Council Hawai'i, and Prometheus Radio Project ("UCC et al."), MB Docket Nos. 09-182, 07-294, December 26, 2012; Comments of Free Press, MB Docket Nos. 09-182, 07-294, December 21, 2012.

<sup>4</sup> See generally: Comments of The National Hispanic Media Coalition ("NHMC"), MB Docket Nos. 09-182, 07-294, December 26, 2012; Comments of The National Association of Black Owned Broadcasters, Inc. ("NABOB"), MB Docket Nos. 09-182, 07-294, December 26, 2012; Comments of Alliance For Women in Media, Inc. ("AWM"), MB Docket Nos. 09-182, 07-294, December 26, 2012.

“In vacating and remanding the FCC’s relaxation of the NBCO Rule and the FCC’s approach in the Diversity Order, the Third Circuit laid out a clear five-step process by which the FCC was to proceed: 1) develop a “minority” ownership database; 2) ensure that database is accurate enough to be reliable for testing the impact of the rules on minority ownership; 3) conduct studies to evaluate the impact of the rules on minority ownership; 4) allow the public to review the studies; and 5) develop a workable SDB definition – *all in time for* completion of the Commission’s 2010 Quadrennial Review.

With the release of the Ownership Report, the Commission has completed only the first step of this process.”<sup>5</sup>

As stakeholders, commenters and participants in the current and prior Quadrennial Reviews, as well as in the proceedings of the Future of Media Report, we have consistently pleaded for the Commission to conduct a comprehensive evaluation of the impact on smaller media enterprises, as well as on disadvantaged, female and minority ownership. We have stressed over and over again our anticompetitive concerns as local media enterprises competing against rivals already outsized via intra-industry consolidation, and called for a granular examination of the local media ecosystem.

While the Court seemingly compels similar analysis, and the newly released Ownership Report should provide critical data for such pending Commission work, we note that studies directly on point have already been conducted by public interest advocates. The findings, while specific to

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<sup>5</sup> See NHMC Comments at 4.

broadcasting, mirror our hometown community publishers' hands-on experience as small business participants in our own local media markets:

“These anecdotal data along with the previously presented econometric evidence clearly show minority-owners are feeling the financial pressures created and exacerbated by local media market consolidation. As markets become more concentrated, artificial economies of scale are created. This drives away potential new entrants in favor of existing large chains. Concentration also has the effect of diminishing the ability of existing smaller station groups and single-station owners to compete for both advertising and programming contracts. These effects combine to create immense pressure for smaller owners to sell their stations.”<sup>6</sup>

We have previously, and repeatedly, detailed the anticompetitive hazards of local, cross-media consolidation which are clearly forecast by the fallout from prior waves of intra-industry mergers. But those concerns do not exist in a local market vacuum. Grave enough on their own, these anticompetitive hazards could well be amplified by a looming confluence of separate, but interrelated Commission policymaking. We draw attention to such additional factors that could bring about a perfect storm for hometown media: The upcoming Spectrum Auctions, combined with the real prospect of the elimination of Open Internet Safeguards.<sup>7</sup>

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<sup>6</sup> See Free Press Comments at 21.

<sup>7</sup> We have to date been astonished by the lack of critical attention given to the game-changing impact that auctioning TV broadcast stations to cellular companies could have on local media markets. We echo concerns raised in *Media Alliance Comments at 3-4*, similarly, *Free Press Comments at 4*, and would have otherwise found instructive any discussion on topic whatsoever in the *Comments of the National Association of Media Brokers (“NAMB”), December 21, 2012*.

Our industry joins with the majority of commenters in calling on the Commission to conduct the necessary and appropriate evaluation of the impact of the Proposed Rules using the finally completed Ownership Report. Further, we also believe the Commission should produce, at the least, a preliminary analysis of combined impacts of potential scenarios arising from multiple, interrelated media policies directed by its authority. An outcome such as fewer firms, with artificially skewed valuations, competing at severe disadvantages with local cross-media juggernauts across traditional and digital channels, under pay-to-play bandwidth prioritization regimes, would not likely enhance the objectives of diversity, localism and competition.

A starting point for even rudimentary investigation of compounding forces potentially working at odds with statutory goals, would be to simply list all broadcast and newspaper entities that the Commission would tentatively designate as “combination eligible” under proposed standards. At the very least, a map or table of Newspaper-Television combinations that would have a technically favorable presumption for merging in the Top 20 DMAs, would enhance this critical public policy debate. A further step would be to publish Commission analysis on projected Spectrum Auction participation, license transfer and subsequent market-specific valuations.

Combining these proposed data sets, together with those in the new Ownership Report, would surely enhance this ongoing public policy debate. It would put the Commission on more solid footing going forward, and enhance potential for best outcomes for all stakeholders.

We respectfully request that the Commission abandon any plans to issue Final Rules in the absence of aforementioned analysis, and the rightful opportunity for public comment on same.

Respectfully Submitted,

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